

FUNDAMENTALS OF TRIAL ADVOCACY COURSE

September 30 – October 4, 2019

Phoenix, Arizona



CASE ANALYSIS

Presented by:

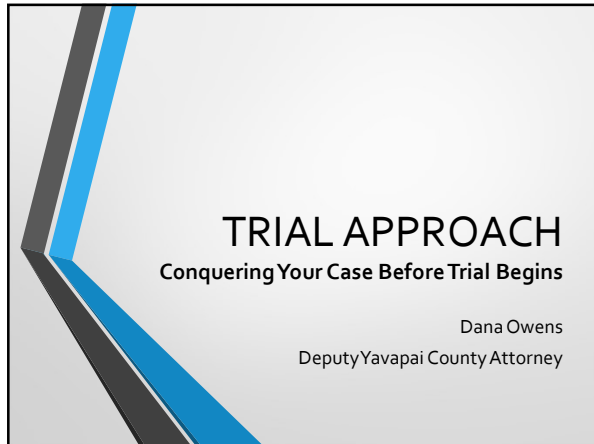
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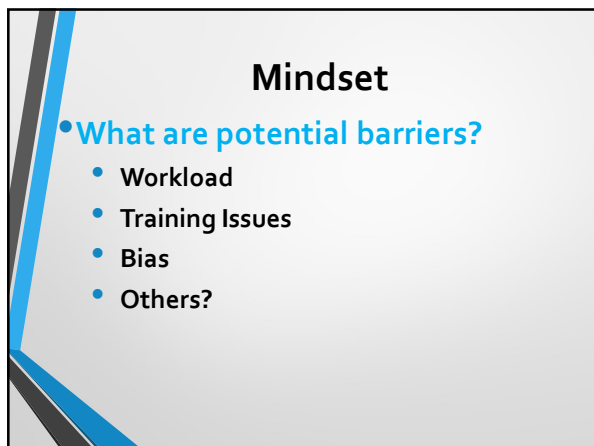
ELIZABETH BURTON ORTIZ
EXECUTIVE DIRECTOR



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Reviewing the Case

- **Read / Review *EVERYTHING*:**
- Reports
- Audio / Video Recordings
- Photographs
- Witness Statements
- Probable Cause / Booking paperwork

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Evaluating Your Case

- Can you prove your case beyond a reasonable doubt with the evidence you have?
- If not, can the officer/deputy do follow up investigation?
- Can you do additional follow up?
 - Should you?

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Evaluating Your Case

- Are your witnesses available? Are they cooperative?
- Is your case contingent on lab analysis? Expert witness?
- What about your victim?
- Prior convictions?
- Is case charged properly?

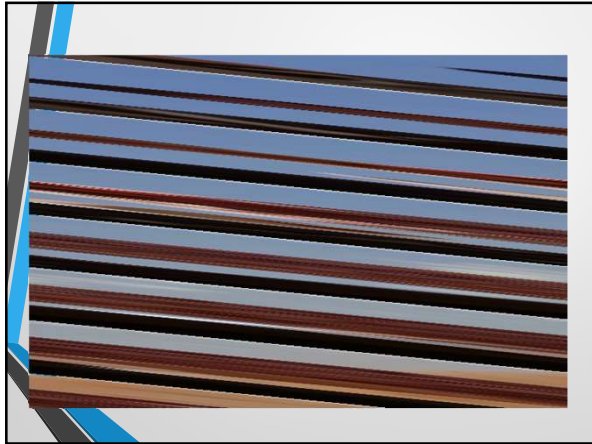
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What Now?

Talk to the defense attorney.



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What Now?

- Offer a plea agreement
- Dismiss / continue pending further investigation
- Dismiss because insufficient evidence / No Reasonable Likelihood of Conviction at Trial
- Set matter for trial

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Prosecution Standard

- *State v. Gomez*, 212 Ariz. 55, 59, 127 P.3d 873, 877 (2006) ("Indictments can be dismissed for various reasons, including a prosecutor's determination that the person charged did not in fact commit the crime or—as this case illustrates—that there is no reasonable likelihood of conviction").
- See Kenneth J. Melilli, Prosecutorial Discretion in an Adversary System, 1992 BYU L. Rev. 669, 684 (1992) ("[V]irtually all prosecutors require, at least at the time of trial, that the government's case present a reasonable likelihood of conviction.").

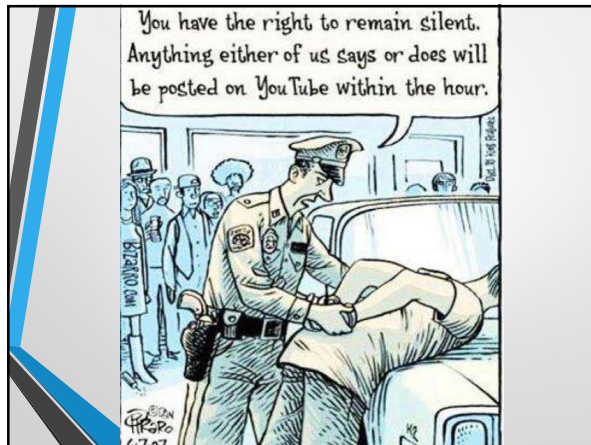
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Pretrial Motions

- *Defensive Pleadings*

- Suppression
- Remand
- Dismiss
- Motion in Limine
- Notice of a specific issue or action

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Pretrial Motions

- *Offensive Pleadings*

- **Notice pleading: Allegations of priors / on probation / on release, 2nd DUI, etc.**
- **Motions in Limine**
- **Notice of a specific issue or action (seeking jail time)**

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Pretrial Motions

- Don't reinvent the wheel
 - Office motion bank / library
 - APAAC www.apaacz.gov
 - NDAA www.ndaa.org
 - Prosecutor's Encyclopedia
www.nypti.org

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Pretrial Interviews

- Who attends?
- How recorded?
- Prepping for an IV
- Objections during interviews
- Problems/ Issues during interviews
- Evidence viewing

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Trial Preparation

- Proposed Jury Instructions
- Final Witness / Exhibit Lists
- Review Juror List, if available
- Confirm subpoenas
- Prepare trial notebook
- Visual Aids
- Prepare witness outlines

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Theme

Do you need one?

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Presentation



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Presentation

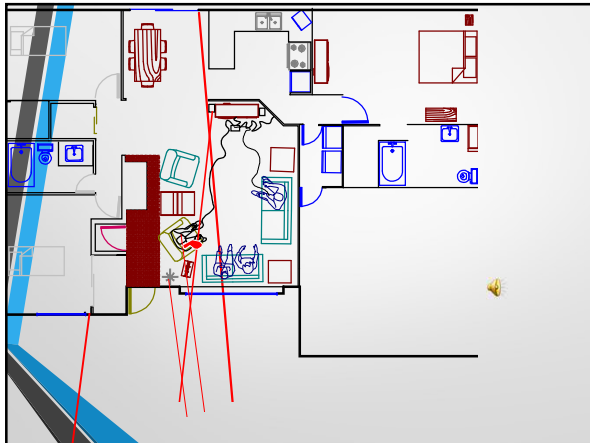
- Evidence
 - Photos
 - Weapons
 - Drugs
 - Documents
 - 911 calls
 - Jail calls

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Presentation

- Different learners / different impact
- Pay attention to juror limitations
- Consider courtroom limitations
- Consider filing notices to court and defense regarding specific evidence


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After Trial


- Debrief
- Evaluate
- Follow-up
- Prepare for next time!



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After Trial

Relax!
Remember why we do this.
Don't neglect yourself—
Food
Exercise
FUN!



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Thanks for All You Do!

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